

ASSEMBLY BILL

No. 600

Introduced by Assembly Member Maddox

February 18, 2003

An act to add Section 65008.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 600, as introduced, Maddox. Government regulation: religious exercise.

Existing law, the Unruh Civil Rights Act, prohibits discrimination in business establishments and housing on the basis of, among other things, religion. Existing law also prohibits local governments from denying individuals or groups the enjoyment of land use on that basis, as specified.

This bill would additionally prohibit any local, state, or other public agency from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, unless the agency demonstrates that the imposition of the burden on that person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. The bill would authorize any person to bring an action to enforce those rights, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 65008.5 is added to the Government Code, to read:

65008.5. (a) It is the intent of the Legislature in the enactment of this section to recognize and emphasize the importance of our fundamental right to worship, free from governmental interference.

(b) As used in this section, “religious exercise” includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(c) No local, state, or other public agency shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the agency demonstrates that the imposition of the burden on that person, assembly, or institution meets both of the following requirements:

(1) It is in furtherance of a compelling governmental interest.

(2) It is the least restrictive means of furthering that compelling governmental interest.

(d) The use of a private residence for religious exercise shall be considered a residential use of property.

(1) This section shall not be construed to forbid any local, state, or other public agency from placing restrictions on building heights, setback, lot dimensions, or placement of signs for a private residence used for religious exercise as long as those restrictions are identical to those applied to other private residences of the same type in the same zone.

(2) This section shall not be construed to forbid the application to a private residence used for religious exercise of any local ordinance or state statute or regulation that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local, state, or public agency if the ordinance, statute, or regulation does not distinguish between a private residence used for religious exercise and other private residences of the same type in the same zone.

(3) No conditional use permit, zoning variance, or other zoning clearance shall be required of a private residence used for religious exercise that is not required of any other private residence of the same type in the same zone.

1 (e) As used in this section, “private residence” includes, but is
2 not limited to, single-family dwellings, units in multifamily
3 dwellings, including units in duplexes and units in apartment
4 dwellings, mobilehomes, including mobilehomes located in
5 mobilehome parks, units in cooperatives, units in condominiums,
6 units in townhouses, and units in planned unit developments.

7 (f) Any person may bring an action in superior court to enforce
8 this section. A judge may award costs and reasonable attorney fees
9 to a prevailing plaintiff.

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